

## **REMARKS**

### **Amendments**

#### ***Amendments to the Claims***

Applicant has amended the claims to more particularly point out what Applicant regards as the invention. In particular, Applicant claims an advertisement that is enabled in a transition between two programs during a channel changing event. No new matter has been added as a result of these amendments because support for the amendments can be found, *intra alia*, on page 44, lines 18-19.

### **Rejections**

#### ***Rejections under 35 U.S.C. § 103***

##### **Claims 16, 18-20, 23, 25 and 28-29**

Claims 16, 18-20, 23, 25 and 28-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hendricks, et al., U.S. Patent 5,798,785 in view of Barton, et al., U.S. Patent 6,233,389. Barton qualifies as prior art only under 35 U.S.C. § 102(e) because it issued after Applicant's effective filing date. Applicant does not admit that Barton is prior art and reserves the right to challenge the reference at a later date.

Hendricks discloses a system that delivers television programs to a user based on the user's indicated preferences. In addition, the system incorporates local advertisements into the delivered video.

Barton discloses simultaneously storing and watching different broadcast television programs.

Claim 16, as amended, recites an advertisement that is enabled in a transition between two programs during a channel changing event. Hendricks discloses incorporating local advertisement into delivered video programs. As is well known in the art, advertisements are incorporated into or in-between video programs of a single channel. In contrast, Applicant claims an advertisement enabled in a transition between two programs during channel change event. Thus, Hendricks cannot be properly interpreted as teaching or suggesting the claimed element. Moreover, because Barton is

directed to storing and displaying television programs and does not specifically disclose advertisements, Barton cannot be properly interpreted as teaching or suggesting an advertisement enabled in a transition between two programs during a channel change event as claimed.

Therefore, the combination of Hendricks and Barton cannot render obvious Applicant's claim 16 and claims 18-20, 23, 25 and 28-29 that depend from it. Accordingly, Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

**Claims 21-22, 24 and 26-27**

Claims 21-22, 24 and 26-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hendricks in view of Barton and Alexander, et al., U.S. Patent 6,177,931. Alexander qualifies as prior art only under 35 U.S.C. § 102(e) because it issued after Applicant's effective filing date. Applicant does not admit that Alexander is prior art and reserves the right to challenge the reference at a later date.

Alexander discloses an electronic program guide that provides customized presentation of advertisements to the viewer.

Claims 21-22, 24, and 26-27 depend from independent claim 16. Claim 16, as amended, recites an advertisement that is enabled in a transition between two programs during a channel changing event. Because Alexander is directed to displaying advertisements on an electronic program guide, Alexander cannot teach or suggest an advertisement enabled in a transition between two programs during a channel change event as claimed. Therefore, because none of Hendricks, Barton, or Alexander teach or suggest an advertisement enabled in a transition between two programs during a channel change event as claimed, the combination cannot be properly interpreted as disclosing the claimed element.

Therefore, the combination cannot render obvious Applicant's invention as claimed in claim 16 and claims 21-22, 24 and 26-27. Accordingly, Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

### **SUMMARY**

Claims 16 and 18-29 are currently pending. Claims 1-15, 17, and 30-40 are canceled without prejudice. In view of the foregoing amendments and remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Eric Replogle at (408) 720-8300 x7514.

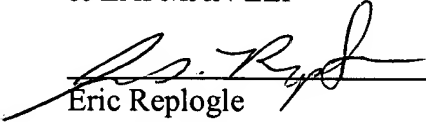
### **Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

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